



BILLING CODE 6717-01-P
DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

Ampersand Kayuta Falls Hydro, LLC

[Project No. 5000-000]

Notice of Existing Licensee's Failure to File A Timely Notice of Intent to File a Subsequent License Application, And Soliciting Notices of Intent to File a License Application and Pre-Application Documents

The current license for Kayuta Lake Hydroelectric Project No. 5000 (Kayuta Lake Project) was issued to the original licensee, Lawrence R. Taft, on September 12, 1984.¹ The license was transferred to Trafalgar Power, Inc. on October 20, 1987;² and was transferred to the current licensee, Ampersand Kayuta Falls Hydro, LLC (Ampersand), on March 18, 2015.³ The original license was issued for a term of 40 years, ending August 31, 2024. The license expiration date was extended to May 31, 2026 by order issued on July 24, 2017.⁴ The 482-kilowatt (kW) project is located on the Black River in Oneida County, New York.

The Kayuta Lake Hydroelectric Project consists of: (a) a 450-foot-long, 26-foot-high dam comprising: (1) a 200-foot-long spillway section with crest elevation of 1,141.7 feet mean sea level (msl); (2) a 40-foot-long gated intake section at the left (south) river bank having four 30-foot-long, 3-foot-diameter steel penstocks; and (3) a 210-foot-long earth embankment; (b) a reservoir (Kayuta Lake) having a surface area of 793 acres and a gross storage capacity of 4,889 acre-feet at normal pool elevation of 1,141.7 feet msl; (c) a trash rack; (d) a powerhouse containing one generating unit with an authorized capacity of 482 kW and operated under a 15-foot-head and flow of 405 cfs; (e) a three-phase 480/46,000-volt 0.4-megavolt-ampere step-up transformer; (f) a 100-foot-long, 46-kilovolt overhead transmission line; and (g) appurtenant facilities.

At least five years before the expiration of a license for a minor water power project in which sections 14 and 15 of the Federal Power Act were waived, the Commission's regulations require the licensee to file with the Commission a notice of intent (NOI) that contains an unequivocal statement of the licensee's intention to file or not to file an application for a subsequent license, details on the principal project works and installed plant capacity, and other information.⁵

If such a licensee does not inform the Commission that it intends to file an application for, in this case, a subsequent license for the project, the licensee may not file

¹ See *Lawrence R. Taft*, 28 FERC ¶ 62,360 (1984).

² See *Lawrence R. Taft, Trafalgar Power, Inc.*, 41 FERC ¶ 62,059 (1987).

³ See *Trafalgar Power, Inc., Ampersand Kayuta Falls Hydro LLC*, 150 FERC ¶ 62,172 (2015).

⁴ See *Ampersand Kayuta Lake Hydro, LLC*, 160 FERC ¶ 62,066 (2017).

⁵ 18 CFR 16.19(b) (2020) (citing 18 CFR 16.6(b)). Section 16.19(b) applies to licenses not subject to Parts 14 and 15 of the Federal Power Act.

an application for a subsequent license, either individually or in conjunction with an entity or entities that are not currently licensees of the project.⁶

Because the current license expires on May 31, 2026, the NOI was due to be filed no later than the close of business on May 31, 2021.⁷ Ampersand, the current licensee for the Kayuta Lake Project, failed to file an NOI by this date.⁸

Any party interested in filing a license application for the Kayuta Lake Project No. 5000 must first file a NOI⁹ and pre-application document (PAD)¹⁰ pursuant to Part 5 of the Commission's regulations. Although the integrated licensing process is the default pre-filing process, section 5.3(b) of the Commission's regulations allows a potential license applicant to request to use alternative licensing procedures when it files its NOI.¹¹

This notice sets a deadline of 120 days from the date of this notice for interested applicants, other than the existing licensee, to file NOIs, PADs, and requests to use an alternative licensing process.

Applications for a subsequent license from potential (non-licensee) applicants must be filed with the Commission at least 24 months prior to the expiration of the current license.¹² Because the current license expires on May 31, 2026, applications for license for this project must be filed by May 31, 2024.¹³

Questions concerning this notice should be directed to Samantha Pollak at (202) 502-6419 or samantha.pollak@ferc.gov.

DATED: November 30, 2021.

Kimberly D. Bose,

⁶ 18 CFR 16.24(b) (2020).

⁷ The Commission's Rules of Practice and Procedure provide that if a filing deadline falls on a Saturday, Sunday, holiday, or other day when the Commission is closed for business, the filing deadline does not end until the close of business on the next business day. 18 CFR § 385.2007(a)(2) (2020). Because the deadline to file the NOI fell on a federal holiday (i.e., Memorial Day), the filing deadline was extended until the close of business on Tuesday, June 1, 2021.

⁸ On November 23, 2021, Ampersand filed a notice of intent and a letter indicating that it intended to proceed with relicensing for the Kayuta Lake Hydroelectric Project No. 5000, however, it did not include a PAD as required by section 5.6 of the regulations.

⁹ 18 CFR 5.5 (2020).

¹⁰ 18 CFR 5.6 (2020).

¹¹ 18 CFR 5.3(b) (2020).

¹² 18 CFR 16.20 (2020).

¹³ To the extent an interested applicant files an NOI and PAD and elects or is required to use the Commission's ILP, a process plan will be issued within 180 days of this notice, which accelerates the steps of the ILP to allow for filing a subsequent license application by the May 31, 2024 deadline.

Secretary.

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